

Document Type:	Conveyance of Land
Document Name:	Exemptions
Exemption Provision:	Bankrupts Pursuant to 71CD

## Introduction

This Document Guide Note applies to a conveyance of land pursuant to Section 71CD.

Land which has vested to the Official Trustee in Bankruptcy or a registered trustee under the *Bankruptcy Act 1966* of the Commonwealth, is exempt from stamp duty pursuant to Section 71CD(a), when the land is transferred back to the bankrupt.

This may occur after the bankrupt's estate has been settled and the property is deemed by the Official Trustee or registered trustee as a surplus asset.

Section 71CD(b) provides that a conveyance of land from the Official Trustee in Bankruptcy or a registered trustee under the *Bankruptcy Act 1966* of the Commonwealth to **some other person**, will be exempt as though the conveyance of land were from the bankrupt or former bankrupt to that person if this transfer is exempt under another provision.

Note: The term 'bankrupt' also includes a former bankrupt.

This exemption applies regardless of whether or not a consideration is paid:

You will need to indicate whether the land is used as **residential** or **non-residential**. For further advice on this refer to the [Document Guide](#) Page.

## What documents can I self-determine under this document type?

The document can be in the form of:

- LTO Form T1 - Transfer.

## What types of transactions can I self-determine under this document type?

A conveyance of land pursuant to Section 71CD is deemed **suitable** for self-determination under this document type where the transfer of land is from the Official Trustee or registered trustee:

- back to the bankrupt.

## What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation either in paper form or electronic form:

- a copy of the documents;
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document); and
- any other evidence to support the application of Section 71CD(b) (if applicable).

## What Section(s) of the *Stamp Duties Act 1923* applies?

- Section 71CD

## What stamp duty is payable on this document?

This document is exempt from stamp duty.

### Examples

#### Land transferred from Official Trustee (or some other registered trustee to Bankrupt or former Bankrupt)

Bill was the registered owner of a shopping centre at Unley. On 21 July 2000, Bill was declared bankrupt and the shopping centre was transferred to the Official Trustee. After 6 months negotiation and re-financing of Bill's debts, the shopping centre is to be transferred back to Bill.

On 2 February 2001, a Transfer is executed where the Official Trustee is the transferor and Bill is the transferee.

The Transfer is **Exempt** from stamp duty pursuant to Section 71CD(a) of the Act.

#### Land transferred from Official Trustee as part of a divorce settlement

Fred and Wilma are married and own their home. Wilma has been declared bankrupt and her share of the property has been transferred to the Official Trustee.

Later the parties divorce and Fred remarries. The Official Trustee no longer requires the property and transfers its interest to Fred's new wife. This transfer is exempt from duty pursuant to Section 71CD (b) of the Act.

## Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019